

1 PAUL J. RIEHLE (SBN 115199)  
2 paul.riehle@faegredrinker.com  
3 **FAEGRE DRINKER BIDDLE & REATH**  
4 **LLP**  
5 Four Embarcadero Center, 27th Floor  
San Francisco, CA 94111  
Telephone: (415) 591-7500  
Facsimile: (415) 591-7510

6 CHRISTINE A. VARNEY (*pro hac vice*)  
cvarney@cravath.com  
7 KATHERINE B. FORREST (*pro hac vice*)  
kforrest@cravath.com  
8 GARY A. BORNSTEIN (*pro hac vice*)  
gbornstein@cravath.com  
9 YONATAN EVEN (*pro hac vice*)  
yeven@cravath.com  
10 LAUREN A. MOSKOWITZ (*pro hac vice*)  
lmoskowitz@cravath.com  
11 M. BRENT BYARS (*pro hac vice*)  
mbyars@cravath.com  
12 **CRAVATH, SWAINE & MOORE LLP**  
13 825 Eighth Avenue  
New York, New York 10019  
14 Telephone: (212) 474-1000  
Facsimile: (212) 474-3700

15 *Attorneys for Plaintiff and Counter-defendant*  
16 *Epic Games, Inc.*

17 **UNITED STATES DISTRICT COURT**  
18 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
19 **OAKLAND DIVISION**  
20

21	_____	)	Case No. 4:20-cv-05640-YGR-TSH
22	EPIC GAMES, INC.,	)	
23	Plaintiff, Counter-defendant,	)	<b>EPIC GAMES, INC.'S</b>
24	v.	)	<b>TENTATIVE TRIAL WITNESS LIST</b>
25	APPLE INC.,	)	The Honorable Yvonne Gonzalez Rogers
26	Defendant, Counterclaimant.	)	Trial: May 3, 2021
27	_____	)	
28		)	

Pursuant to Pretrial Order No. 1 (ECF No. 371) and the Court's Standing Order re: Pretrial Instructions in Civil Cases, Plaintiff and Counter-Defendant Epic Games, Inc. ("Epic") files its tentative list of trial witnesses, other than for impeachment or additional rebuttal, reserving its rights to supplement or amend its list for good cause or in response to revisions by Apple Inc. ("Apple") to Apple's witness list and other pre-trial disclosures. Epic also reserves the right to substitute deposition designations for live testimony, and vice versa, including based on the availability or non-availability of any witness to appear at trial. Attached hereto as Exhibits 1 to 18 are the curricula vitae of Epic's expert witnesses and summaries of their opinions, redacted for information designated by Apple under the Amended Protective Order (ECF No. 274).

DATE: March 19, 2021

**CRAVATH, SWAINE & MOORE LLP**

/s/ Katherine B. Forrest

Katherine B. Forrest

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New York, New York 10019

Telephone: (212) 474-1000

Facsimile: (212) 474-3700

cvarney@cravath.com

kforrest@cravath.com

gbornstein@cravath.com

yeven@cravath.com

lmoskowitz@cravath.com

mbyars@cravath.com

*Attorneys for Plaintiff and Counter-defendant  
Epic Games, Inc.*

EPIC GAMES, INC.'S TENTATIVE TRIAL WITNESS LIST

Case No. 4:20-cv-05640-YGR-TSH

**Fact Witnesses**

<b><u>Witness</u></b>	<b><u>Epic's Brief Statement of Substance of Testimony</u></b>	<b><u>Estimated Length of Direct Examination</u></b>	<b><u>Estimated Length of Cross-Examination</u></b>	<b><u>Estimated Length of Re-Direct Examination</u></b>	<b><u>Appearance</u></b>
<b><u>Epic Witnesses</u></b>					
Steve Allison, General Manager, Epic Games Store	Epic Games Store (business)	30 minutes	45 minutes	10 minutes	Live, in person
Andrew Grant, Engineering Fellow*	Epic's membership in the Apple Developer Program; engineering and development of Epic's products for various platforms; Epic Direct Payment on iOS	1 hour	30 minutes	10 minutes	Live, in person
Thomas Ko, Senior Director, Head of Online Business Strategy and Operations	Epic's payment processing services; Apple's payment processing services; Epic Direct Payment on iOS	30 minutes	1 hour	15 minutes	Live, in person
Joseph Kreiner, Vice President of Business Development	Epic Games Store (business); Epic's business relationships with console partners	30 minutes	1 hour	20 minutes	Live, in person or may request leave to appear remotely
(* Primary witness and not included as precautionary)					

EPIC GAMES, INC.'S TENTATIVE WITNESS LIST  
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<u><b>Witness</b></u>	<u><b>Epic's Brief Statement of Substance of Testimony</b></u>	<u><b>Estimated Length of Direct Examination</b></u>	<u><b>Estimated Length of Cross-Examination</b></u>	<u><b>Estimated Length of Re-Direct Examination</b></u>	<u><b>Appearance</b></u>
Tim Sweeney, Founder and Chief Executive Officer*	Epic's history and business; Epic's business discussions with Apple and Google; Epic Direct Payment on iOS; App Store policies and practices; Epic's marketing and promotional activities; Epic's efforts to compete in app distribution and in-app payment processing	4 hours	3 hours	40 minutes	Live, in person
Matthew Weissinger, Vice President, Marketing*	Epic's marketing and promotional activities; marketing and promotional support services offered by video game consoles and mobile operating system providers, including Apple	1 hour	1 hour	15 minutes	Live, in person
Document custodian <sup>1</sup>	Admission of business records and other documents in Epic's possession, as necessary	5 minutes			Live, in person or may request leave to appear remotely.

<sup>1</sup> Epic expects that the parties will meet and confer regarding, and potentially stipulate to, the admission of business records and other documents, but Epic reserves its right to call witnesses to support the admission of business records and other documents, if necessary.

<u><b>Witness</b></u>	<u><b>Epic's Brief Statement of Substance of Testimony</b></u>	<u><b>Estimated Length of Direct Examination</b></u>	<u><b>Estimated Length of Cross-Examination</b></u>	<u><b>Estimated Length of Re-Direct Examination</b></u>	<u><b>Appearance</b></u>
<u><b>Apple Witnesses</b></u>					
Matt Fischer, Vice President, App Store	App Store business strategy; App Store financial performance; App Store policies and practices; Apple's market power over iOS developers; and/or the subjects of designated testimony	1 hour and 30 minutes	1 hour	30 minutes	Live, in person or by Deposition Designation
Trystan Kosmyinka, Senior Director, App Review	App Store review policies and practices; iOS and macOS engineering, security and privacy issues; and/or the subjects of designated testimony	45 minutes	2 hours	30 minutes	Live, in person or by Deposition Designation
Michael Schmid, Head of Games Business Development, App Store	App Store business strategy; App Store policies and practices; Apple's market power over iOS developers; differences between gaming on mobile and other platforms; allegations about Epic, including Epic's relationship with Apple and other platform providers	20 minutes	1 hour	10 minutes	Live, in person

EPIC GAMES, INC.'S TENTATIVE TRIAL WITNESS LIST  
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<u><b>Witness</b></u>	<u><b>Epic's Brief Statement of Substance of Testimony</b></u>	<u><b>Estimated Length of Direct Examination</b></u>	<u><b>Estimated Length of Cross-Examination</b></u>	<u><b>Estimated Length of Re-Direct Examination</b></u>	<u><b>Appearance</b></u>
Document custodian	Admission of business records and other documents in Apple's possession, as necessary	5 minutes			Live
Eddy Cue, Senior Vice President, Internet Software and Services	The subjects of designated testimony, which include: lack of competition among mobile devices and mobile operating system software; App Store business strategy; App Store financial performance; current and historical App Store policies and practices; Apple's prior antitrust violations	1 hour <sup>2</sup>	10 minutes		Deposition Designation
Craig Federighi, Senior Vice President, Software Engineering	The subjects of designated testimony, which include: iOS and macOS engineering, security, privacy and competition issues; App Store policies and practices	30 minutes	5 minutes		Deposition Designation

<sup>2</sup> Epic expects the length of direct examination for witnesses that Epic calls by deposition designation to be cut by approximately 50% to the extent that Epic is not required to play deposition testimony that is simply for the purpose of sponsoring a document.

<b><u>Witness</u></b>	<b><u>Epic's Brief Statement of Substance of Testimony</u></b>	<b><u>Estimated Length of Direct Examination</u></b>	<b><u>Estimated Length of Cross-Examination</u></b>	<b><u>Estimated Length of Re-Direct Examination</u></b>	<b><u>Appearance</u></b>
Scott Forstall, Senior Vice President, iOS Software (former)	The subjects of designated testimony, which include: iOS and macOS engineering, security, privacy and competition issues; historical App Store policies and practices; Apple's in-app purchasing function	1 hour	10 minutes		Deposition Designation
Eric Friedman, Head of Fraud Engineering, Algorithms, and Risk	The subjects of designated testimony, which include: App Store review process; fraud and other abuse in Apple's ecosystem	30 minutes	5 minutes		Deposition Designation
Eric Gray, Director, Commerce, Subscriptions & Pricing	The subjects of designated testimony, which include: inefficiencies and lack of integration of Apple's payment processing services; app pricing and inelasticity of demand; fraud and other abuse in Apple's ecosystem	45 minutes	5 minutes		Deposition Designation

EPIC GAMES, INC.'S TENTATIVE TRIAL WITNESS LIST  
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<b><u>Witness</u></b>	<b><u>Epic's Brief Statement of Substance of Testimony</u></b>	<b><u>Estimated Length of Direct Examination</u></b>	<b><u>Estimated Length of Cross-Examination</u></b>	<b><u>Estimated Length of Re-Direct Examination</u></b>	<b><u>Appearance</u></b>
C.K. Haun, Senior Director, Developer Technical Services	The subjects of designated testimony, which include: App Store review policies and practices; iOS and macOS engineering, security and privacy issues	45 minutes	5 minutes		Deposition Designation
Ron Okamoto, Vice President, Worldwide Developer Relations (former)	The subjects of designated testimony, which include: benefits Apple receives from other software developers, including Epic; Apple's market power over iOS developers	15 minutes	5 minutes		Deposition Designation
Carson Oliver, Director of Business Management, App Store	The subjects of designated testimony, which include: App Store policies and practices; Apple's market power over iOS developers	10 minutes	5 minutes		Deposition Designation
Shaan Pruden, Senior Director of Partnership Management and Worldwide Developer Relations	The subjects of designated testimony, which include: benefits that Apple receives from other software developers, including Epic	15 minutes	5 minutes		Deposition Designation

## EPIC GAMES, INC.'S TENTATIVE TRIAL WITNESS LIST

Case No. 4:20-cv-05640-YGR-TSH



<u><b>Witness</b></u>	<u><b>Epic's Brief Statement of Substance of Testimony</b></u>	<u><b>Estimated Length of Direct Examination</b></u>	<u><b>Estimated Length of Cross-Examination</b></u>	<u><b>Estimated Length of Re-Direct Examination</b></u>	<u><b>Appearance</b></u>
Mark Rollins, Finance Manager	The subjects of designated testimony, which include: Apple financials; App Store profit and loss statements	10 minutes			Deposition Designation
Phillip Shoemaker, Technology Director, App Review (former)	The subjects of designated testimony, which include: historical App Store review policies and practices	45 minutes			Deposition Designation
<u><b>Third-Party Witnesses</b></u>					
Vivek Sharma, Vice President, Gaming, Facebook, Inc.*	App distribution; Apple restrictions on iOS app distribution; App Store review process; interactions with Apple	45 minutes	1 hour	15 minutes	Mr. Sharma is expected to request to appear remotely.
Lori Wright, Vice President, Xbox Business Development, Microsoft Corporation*	Distribution of software; Xbox video game console business and operations; Xbox cloud gaming, including xCloud and Game Pass; interactions with Apple	90 minutes	1.5 hour	20 minutes	Intends to appear live and in person, but may request leave to appear remotely.

EPIC GAMES, INC.'S TENTATIVE TRIAL WITNESS LIST  
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<u><b>Witness</b></u>	<u><b>Epic's Brief Statement of Substance of Testimony</b></u>	<u><b>Estimated Length of Direct Examination</b></u>	<u><b>Estimated Length of Cross-Examination</b></u>	<u><b>Estimated Length of Re-Direct Examination</b></u>	<u><b>Appearance</b></u>
Benjamin Simon, Founder and Chief Executive Officer, Yoga Buddhi Co.*	App distribution; participation in the Apple Developer Program; App Store review process; interactions with Apple	45 minutes	30 minutes	10 minutes	Intends to appear live and in person, but may request leave to appear remotely.
Shelley Gould, President, Co-Founder, Neuro-Fin Inc. d/b/a SmartStops*	App distribution; participation in the Apple Developer Program; App Store review process; interactions with Apple	30 minutes	30 minutes	10 minutes	Intends to appear live and in person, but may request leave to appear remotely.
Aashish Patel, Director of Product Management, Nvidia Corporation*	App distribution; Nvidia's GeForce Now service and business model; differences between streamed apps and locally hosted apps; differences between native apps and web apps; App Store review process; interactions with Apple; and/or	45 minutes	45 minutes	10 minutes	Live or by Deposition Designation. If appearing live, Mr. Patel may request leave to appear remotely. <sup>3</sup>

<sup>3</sup> Mr. Patel confirmed at his deposition that he is within the Court's trial subpoena power and, therefore, is available to testify live, making deposition designations inadmissible absent stipulation of the parties, given Mr. Patel's status as a third party. Epic is willing to meet and confer with Apple regarding the parties potentially stipulating to the presentation of Mr. Patel's testimony by designation. For the avoidance of doubt, Epic reserves the right to call Mr. Patel live and to object to Apple's introduction of designations from Mr. Patel's deposition in the event the parties cannot reach such an agreement.

EPIC GAMES, INC.'S TENTATIVE TRIAL WITNESS LIST

Case No. 4:20-cv-05640-YGR-TSH

<u><b>Witness</b></u>	<u><b>Epic's Brief Statement of Substance of Testimony</b></u>	<u><b>Estimated Length of Direct Examination</b></u>	<u><b>Estimated Length of Cross-Examination</b></u>	<u><b>Estimated Length of Re-Direct Examination</b></u>	<u><b>Appearance</b></u>
	the subjects of designated testimony				
Adrian Ong, Senior Vice President of Operations, Match Group*	The subjects of designated testimony, which include: App distribution; participation in the Apple Developer Program; App Store review process; interactions with Apple; differences between native apps and web experiences; Match Group's payment processing capabilities; effects of Apple's 30% fee on Match Group and its users; user acquisition	45 minutes	5 minutes		Deposition Designation

**Expert Witnesses**

<b><u>Witness</u></b>	<b><u>Summary of Theory and Conclusions and Bases Therefor and CV</u></b>	<b><u>Estimated Length of Direct Examination</u></b>	<b><u>Estimated Length of Cross-Examination</u></b>	<b><u>Estimated Length of Re-Direct Examination</u></b>	<b><u>Appearance</u></b>
Susan Athey, Economics of Technology Professor, Stanford University Graduate School of Business*	See expert disclosure served February 16, 2021	1 hour /  40 minutes (with potential written direct)	1.5 hours	30 minutes	Live, in person
Ned S. Barnes, Managing Director, Berkeley Research Group*	See expert disclosure served February 16, 2021	30 minutes /  15 minutes (with potential written direct)	1 hour	20 minutes	Live, in person
Michael I. Cragg, Principal and Chairman, The Brattle Group*	See expert disclosure served March 15, 2021	1 hour and 30 minutes /  1 hour (with potential written direct)	1 hour	20 minutes	Live, in person

EPIC GAMES, INC.'S TENTATIVE TRIAL WITNESS LIST

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<u><b>Witness</b></u>	<u><b>Summary of Theory and Conclusions and Bases Therefor and CV</b></u>	<u><b>Estimated Length of Direct Examination</b></u>	<u><b>Estimated Length of Cross-Examination</b></u>	<u><b>Estimated Length of Re-Direct Examination</b></u>	<u><b>Appearance</b></u>
David Evans, Chairman, Global Economics Group*	See expert disclosures served February 16, 2021 and March 15, 2021	5 hours /  3 hours (with potential written direct)	4.5 hours	1 hour	Live, in person
Wenke Lee, Chair, College of Computing, Georgia Institute of Technology*	See expert disclosures served February 16, 2021 and March 15, 2021	1 hour /  30 minutes (with potential written direct)	1 hour	20 minutes	Live, in person
Nancy A. Mathiowetz, Professor Emerita, Department of Sociology, the University of Wisconsin-Milwaukee*	See expert disclosure served March 15, 2021	40 minutes /  20 minutes (with potential written direct)	1 hour	20 minutes	Live, in person
James Mickens, Professor of Computer Science, Harvard University*	See expert disclosure served February 16, 2021	1 hour 30 minutes /  1 hour 30 minutes (with potential written direct)	1 hour	20 minutes	Intends to appear live and in person, but may request leave to appear remotely.

## EPIC GAMES, INC.'S TENTATIVE TRIAL WITNESS LIST

Case No. 4:20-cv-05640-YGR-TSH

<u><b>Witness</b></u>	<u><b>Summary of Theory and Conclusions and Bases Therefor and CV</b></u>	<u><b>Estimated Length of Direct Examination</b></u>	<u><b>Estimated Length of Cross- Examination</b></u>	<u><b>Estimated Length of Re- Direct Examination</b></u>	<u><b>Appearance</b></u>
Peter E. Rossi, Professor of Marketing, Economics and Statistics, UCLA*	See expert disclosure served February 16, 2021	40 minutes /  15 minutes (with potential written direct)	1 hour	20 minutes	Live, in person

EPIC GAMES, INC.'S TENTATIVE TRIAL WITNESS LIST  
Case No. 4:20-cv-05640-YGR-TSH